IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY

WEDNESDAY, THE 7TH FEBRUARY 2007 / 18TH MAGHA 1928

CRL.A.No. 35 of 1999()

JUDGMENT OF THE VTH ADDL. SESSIONS JUDGE, ERNAKULAM IN CRL.A.No91/96 IN CC.83/1986 of ADDL.CHIEF JUDICIAL MAGISTRATE (E & O),ERNAKULAM
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APPELLANT: COMPLAINANT

THE INCOME TAX OFFICER,
E- WARD, CIRCULE -I, AAYAKAR BHAVAN,
CALICUT.

BY ADV. SRI.P.K.RAVINDRANATHA MENON (SR.)
SRI.NRK.NAYAR

RESPONDENTS: ACCUSED
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1. **M/S.RANGASWAMY CHETTIAR & SONS (AGENCIES), KALLAI ROAD, CALICUT.**

2. **R.GOPALAKRISHNAN, MANAGING PARTNER, M/S.V.RANGASWAMY CHETTIAR & SONS (AGENCIES) KALLAI RAOD, CALICUT.**

3. **STATE OF KERALA REP.BY PUBLIC PROSECUTOR**

BY PUBLIC PROSECUTOR SRI.K.C.SANTHOSHKUMAR

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 07/ 02 /2007 , THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B.KOSHY, J.

Crl.Appeal No.35 OF 1999

Dated 7th February, 2007

JUDGMENT

The Income Tax Officer filed a complaint before the Additional Chief Judicial Magistrate (Economic Offences), Ernakulam for prosecuting the respondents for an offence punishable under section 276B(ii) of the Income Tax Act. For assessment years 1981-82 to 1985-86, the Criminal Court found that ingredients of offence under under section 276B(ii) of the Income Tax Act were not proved and, therefore, the Sessions Court in Crl.A.91 of 1996 acquitted the accused reversing the finding of the Addl. Chief Judicial Magistrate. This appeal relates to the assessment year 1985-86. In identical prosecution proceedings taken for the assessment years 1982-83 to 1984-85 also the accused was acquitted and this court in Crl.A.Nos.909, 914 and 978 of 1998 dismissed the appeals filed against the acquittal. For the same reason, this appeal is also liable to be dismissed as no grounds are made out for interference in the order of acquittal. I also note that even though notice was issued in this appeal on

27.1.1999, it is not served so far and no effective steps were taken to serve notice. Without service of notice to the accused, order of acquittal cannot be reversed. In any event, there is no merit in the appeal.

The appeal is dismissed.

J.B.KOSHY
Judge

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